

Before The
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In re:)	WCOV-TV
)	Montgomery, Alabama
WOODS COMMUNICATION)	Facility I.D. No. 73642
CORPORATION)	CG Docket No. 06-181
)	CGB-CC-0359
)	
)	

To: The Commission

REPLY

FILED/ACCEPTED
MAY - 7 2007
 Federal Communications Commission
 Office of the Secretary

Woods Communication Corporation (Woods), by its attorney, submits its Reply to the March 26, 2007, Opposition to the Petition for Exemption from Closed Caption Requirements (Opposition). In support, the following is respectfully submitted:

Background

Woods requested an exemption from the Commission's closed captioning requirements with respect to three (3) locally produced programs.¹ Woods asserted in its request that the cost to provide the closed captioning would exceed the revenues generated by the programs and thus the expenditure would not be justified. Accordingly, absent an exemption, Woods would be forced to either air the programs without repeat or cancel the programs completely.

The Opposition was submitted by Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), National Association for the Deaf (NAD), Deaf and Hard of Hearing Consumer

¹ The programs are County Law, MPD, and Venture Outdoors.

Advocacy Network (DHHCAN), Hearing Loss Association of America (HLAA), Association of Late-Deafened Adults, Inc. (ALDA), American Association of People with Disabilities (AAPD), and California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH) (collectively Commenters). The Commenters state the following:

“Commenters oppose grant of the Petition because Petitioner has provided insufficient information to demonstrate and/or for the Commission to demonstrate that it meets the undue burden standard for granting the Petition. Commenters recommend that the Petitioner be given 180 days either to comply with the Closed Captioning Rules or to re-apply with sufficient information to allow the Commission and the public to determine whether the Petitioner’s request meets the legal standard for granting a waiver.”

ARGUMENT

Commenters are Not Interested Persons

Within the Meaning of the FCC’s Rules.

Section 79.1 (f) (6) of the FCC’s rules provides that “any interested person may file comments or oppositions to the petition” for exemption.² Commenters are not interested persons within the meaning to the FCC rules and the Administrative Procedure Act.³ Commenters do not

² 47 C.F.R. § 79.1 (f)(6)

³ 5 U.S.C.A. § 555(b)

allege that the FCC's grant of the above captioned petition in any way would injure them or any of their members. Nor do they claim that any member regularly watches WCOV's programs. Commenters have not shown how the FCC's grant of the Petition for Exemption would cause them or their members harm. Without a showing of an injury-in-fact, Commenters are not "interested persons." Therefore, they do not have standing to participate in this proceeding.

The Administrative Procedure Act provides that an "interested person" may appear before an agency for the presentation, adjustment, or determination of an issue. 5 U.S.C.A. § 555(b). The Court of Appeals has held that the injury-in-fact rule for standing of *Sierra Club v. Morton*, 405 U.S. 723, 733, 31 L. Ed. 2d 636, 92 S. Ct. 1361 (1972) covers the "interested person" language of the Administrative Procedure Act. *Trusteesfor Alaska v EPA*, 749 F.2d 548, 554 (9th Cir. 1984) (adopting the analysis in *Montgomery Environmental Coalition v. Castle*, 207 App. D.C. 233, 646 F.2d 568, 578 (D.C. Cir. 1980)). *Compare, In the Matter of Cox Communications, Inc.*, 14 FCC Rcd 11716 (1999) (Petitioners are not "interested persons" outside of the area where they are cable subscribers.)

The "irreducible constitutional minimum" for standing is that the appellant was injured in fact, that its injury was caused by the challenged conduct, and that the injury would likely be redressed by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61, 119 L. Ed. 2d 351, 112 S. Ct. 2130 (1992); *Microwave Acquisition Corp. v. FCC*, 330 U.S. App. D.C. 340, 145 F.3d 1410, 1412 (D.C. Cir. 1998). Associations, such as Commenters, have standing to sue on behalf of their members only if (1) at least one of the members would have standing to sue in his own right, (2) the interest the association seeks to protect is germane to its purpose, and (3) neither the claim asserted or the relief requested requires that an individual member

participate in the lawsuit. *Hunt v. Washington State Apple Adver. Comm'n*, 432 U.S. 333,343 (1977).

Generally, the Commission accords party in interest standing to a petitioner that demonstrates either residence in the station's service area, or that the petitioner listens to or views the station regularly.⁴ *Chet-5 Broadcasting, L P.* 14 FCC Rcd 13041 (1999). In this case, Commenters should have demonstrated that at least one of their members resides in the service area of the station that broadcasts WCOV's programming, and that the member regularly views the programming. Commenters have not provided the statement of a single member who claims to be aggrieved or adversely affected by the grant of Woods' Petition for Exemption for the Closed Captioning Exemption of the Closed Captioning rules. Accordingly, the Commission should strike the Commenters' Opposition without consideration.

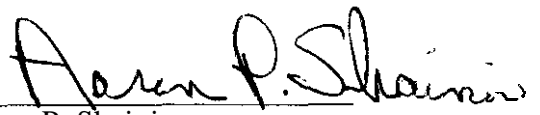
Woods, upon request, will provide whatever additional information the Commission needs to make a determination that the requested exemption is warranted. However, it is submitted that the Commission has sufficient information before it to rule that the requested exemption should be granted.

Woods demonstrated in its Request that the cost of providing Closed-Captioning was not justified in light of the program revenues. Absent an exemption Woods will either air the programs without repeat or cancel the programs in question. The cancellation of the programs, which are local oriented, will fly in the face of the Commission's ongoing Notice of Inquiry (NOI) in Docket No.04-233, FCC 04-129, released July 1,2004, In the Matter of Broadcast Localism. It is submitted that such a result is neither in the public interest nor consistent with the Commission's localism concerns. Thus, an exemption is warranted.

⁴ 47 U.S.C. § 309 (d)(1) ("any party in interest may file with the Commission a petition to deny...")

Respectfully Submitted,

Woods Communications
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CERTIFICATE OF SERVICE

I certify that on this 7th day of May, 2007, I caused to be sent by mail, copies of the foregoing Reply to the following:

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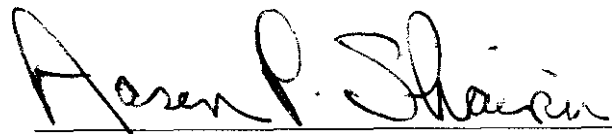
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